

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Parts 73 and 74 of the)	MB Docket No. 03-185
Commission's Rules to Establish Rules for)	
Digital Low Power Television and Television)	
Translator Stations)	
)	
Expanding the Economic and Innovation)	GN Docket No. 12-268
Opportunities of Spectrum Through Incentive)	
Auctions)	
)	
Amendment of Part 15 of the Commission's)	ET Docket No. 14-175
Rules to Eliminate the Analog Tuner)	
Requirement)	

To: The Commission
(Filed electronically through ECFS)

COMMENTS OF INTERNATIONAL COMMUNICATIONS NETWORK, INC.

1. International Communications Network, Inc. ("ICN") hereby submits these Comments in response to the Commission's *Fourth Notice of Proposed Rulemaking* in the above-captioned proceedings, FCC 15-175, released December 17, 2015.¹ ICN supports the proposal to allow channel-sharing between primary and secondary stations and urges the Commission to provide incentives to promote such sharing, as discussed below.

2. ICN is the licensee of digital low power television ("LPTV") station KSDY-LD in San Diego, California (Facility ID 56830), which serves Spanish and English-speaking communities with multiple program streams. ICN is owned by an African American and Hispanics. The upcoming Incentive Auction and repacking of the TV broadcast spectrum will especially endanger KSDY-LD, because the station operates on Channel 50, which will be

¹ 81 FR 5086 (Feb. 1, 2016).

repurposed, and is located near an international border, where displacement channels are likely to be difficult to find.

2. ICN filed comments on October 12, 2015, in GN Docket No. 12-128 and MB Docket No. 15-437, urging the Commission to do more than it has done so far to help preserve stations like KSDY-LD. It continues to urge the Commission to grant more post-repack relief than has previously been granted. While channel-sharing will not completely solve the problems of KSDY-LD or the low power TV industry generally, maximizing opportunities for channel-sharing by LPTV stations, including sharing with permanent stations, and allowing flexible sharing arrangements, will at least help to some extent to advance the Commission's stated goal of mitigating the negative impacts of the auction and repacking process on LPTV stations.

3. Allowing sharing between low power stations and both full power and Class A stations will provide a significantly improved opportunity for LPTV stations to survive the impending spectrum repack and to be assured that survival will not be illusory or temporary. If the host station has permanent spectrum status, then sharing with that station will ensure that the signal delivery platform will not suddenly evaporate to make way for another spectrum user that has higher priority. The prospect of a long-term spectrum home will make a major difference in the ability of LPTV stations to attract the investment capital needed to improve their programming services.

4. The primary status of the spectrum should be determined by the status of the host sharer station. There is no reason to treat an LPTV sharee any differently from a full power or Class A station sharee. A shared channel is a fixed 6 MHz bandwidth that cannot be subdivided under current television technical standards. Therefore, it is impossible to make an LPTV sharee secondary on a channel occupied by a primary sharer, in the sense of exposing it to displacement

at any time, unless the Commission reserves the right to force a sharer host to stop sharing altogether or to find another sharing partner. Since sharing is a completely voluntary arrangement for both sharers and sharees, it would completely upset the sharing regime, without any good reason, to say that if a permanent station elects to share with a secondary station, the Commission can still displace the secondary station, contrary to the wishes of the host sharer.²

5. As ICN stated in its previous comments, there are several things the Commission can do to facilitate channel-sharing as a partial solution to LPTV displacement problems. The keystones are flexibility in timing, flexibility in legal and economic arrangements, and incentives for full power and Class A stations to share with LPTV stations.

6. It should be readily apparent that channel-sharing and the operating efficiencies that sharing can bring should not be confined to arrangements entered into prior to the Incentive Auction or the spectrum repack. LPTV stations in particular will face a period of serious uncertainty as to whether or not they will be able to find a displacement channel that they can occupy by themselves and the capacity of which they can fully utilize on their own. They will not know until after the Commission has announced final full power and Class A channel assignments which channels will remain available and what signal coverage will be possible on those channels. Some LPTV licensees will want to wait in the hope that they can successfully find their own new channel home before they commit to sharing, particularly because many LPTV stations (including KSDY-LD) broadcast multiple streams of programming and will lose stream capacity and have to reduce the diversity of their services to the public if they have no

² Likewise, there is no need for sharing between a primary and a secondary station to alter the MVPD carriage rights of either party to the sharing arrangement as they stood before sharing was implemented.

alternative but to share a channel.³ Limiting channel sharing to contracts made prior to the repack will force LPTV stations to try to predict their spectrum fate and to make what may turn out to be undesirable economic choices if they must make those choices before critical information becomes available.

7. The Commission should also do its best to incentivize both full power and Class A stations to share capacity with LPTV stations, and especially with displaced LPTV stations. If stations that are guaranteed post-repack survival are incentivized to share, the result will be improved prospects for survival of the diverse ownership and programming services that LPTV stations bring to the broadcasting industry. Incentives could include the ability to shift programming obligations (such as children's programming) back and forth between sharers and allowing one party to provide main studio presence in terms of facilities and staff for the other.

8. The need for relief for LPTV stations goes to the heart of preserving diversity of ownership and television programming services to the public. The prospect of affording priority in the spectrum repack to entities that own multiple Class A stations in a market, or full power stations in addition to Class A, runs strongly contrary to the diversity goal. The problem is especially severe because multiple ownership limits do not apply to Class A stations, allowing one entity to control many protected outlets in the same market. To ameliorate this problem, ICN urges the Commission further to incentivize primary stations – or at least Class A stations -- to share by giving them priority access to the best remaining repacked channels in a market if

³ The loss of capacity for multiple streams both curtails a station's ability to offer specialized programming to minority audiences that are too small to sustain a station with only a single stream and reduces the revenues that LPTV stations need to recover operating expenses and to amortize their investment.

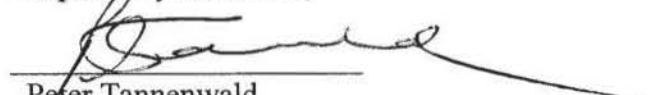
they agree to share with a secondary station and grant access to at least one-third of their bandwidth.

9. The post-spectrum repack world will be very different from what broadcasters have learned to expect in the past. A major objective of the plan to repurpose spectrum is to allow market forces to determine where and how spectrum can best be deployed. Likewise, market forces, subject only to restrictions on abuse, should be left unfettered to maximize opportunities for small broadcasters to remain in business and to allow those who remain to use their spectrum in the way they perceive to be most effective and efficient. Sharing by secondary stations with primary stations will constitute a significant improvement in the free functioning of the television broadcast marketplace and should be actively promoted and encouraged.

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Respectfully submitted,



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